

DETAILED ACTION  
*Election/Restrictions*

1. Claims 20, 67-75, 80-85 and newly added claims 99-102 (see below) directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(b), claim 76-79, 86-89 and newly added claims 90-98 (see below), directed to the process of making or using the allowable product, previously withdrawn from consideration as a result of a restriction requirement, are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because a claimed invention previously withdrawn from consideration under 37 CFR 1.142 has been rejoined, the restriction requirement between groups I, III and IV as set forth in the Office action mailed on 24 August 2007 is hereby **WITHDRAWN**. For clarity, it is noted that claims directed the invention of Group II (nucleic acids) set forth in the restriction requirement mailed 24 August 2007 has NOT been rejoined. In view of the withdrawal of the restriction requirement as to the rejoined inventions (Groups I, III and IV), applicants are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Anne Carlson on 18 February 2009.

Claims 79 and 89 are amended as follows and claims 90-102 are newly added.

79. (Rejoined and currently amended) The method of claim 78, wherein the effector molecule is a detectable label ~~or a toxin~~.

89. (Rejoined and currently amended) The method of claim 88, wherein the effector molecule is a detectable ~~label or a toxin~~ label.

90. (New) A method of treating a subject having a tumor that expresses TAG-72, comprising administering to the subject a therapeutically effective amount of the antibody of claim 20, wherein administering the therapeutically effective amount of the antibody inhibits the growth of the tumor or reduces the size of the tumor, thereby treating the subject.

91. (New) The method of claim 90, wherein the administration of a therapeutically effective amount of the antibody does not elicit a human anti-murine antibody response in a subject.

92. (New) The method of claim 90, wherein the antibody further comprises an effector molecule.

93. (New) The method of claim 92, wherein the effector molecule is a toxin or a radioactive isotope.

94. (New) A method of treating a subject having a tumor that expresses TAG-72, comprising administering to the subject a therapeutically effective amount of the antibody of claim 67, wherein administering the therapeutically effective amount of the antibody inhibits the growth of the tumor or reduces the size of the tumor, thereby treating the subject.

95. (New) A method of treating a subject having a tumor that expresses TAG-72, comprising administering to the subject a therapeutically effective amount of the antibody of claim 68, wherein administering the therapeutically effective amount of the antibody inhibits the growth of the tumor or reduces the size of the tumor, thereby treating the subject.

96. (New) A method of treating a subject having a tumor that expresses TAG-72, comprising administering to the subject a therapeutically effective amount of the antibody of claim 70, wherein administering the therapeutically effective amount of the antibody inhibits the growth of the tumor or reduces the size of the tumor, thereby treating the subject.

97. (New) A method of treating a subject having a tumor that expresses TAG-72, comprising administering to the subject a therapeutically effective amount of the antibody of claim 80, wherein administering the therapeutically effective amount of the antibody inhibits the growth of the tumor or reduces the size of the tumor, thereby treating the subject.

98. (New) A method of treating a subject having a tumor that expresses TAG-72, comprising administering to the subject a therapeutically effective amount of the antibody of claim 82, wherein administering the therapeutically effective amount of the antibody inhibits the growth of the tumor or reduces the size of the tumor, thereby treating the subject.

99. (New) A pharmaceutical composition comprising a therapeutically effective amount of the antibody of claim 20 in a pharmaceutically acceptable carrier.

100. (New) A pharmaceutical composition comprising a therapeutically effective amount of the antibody of claim 67 in a pharmaceutically acceptable carrier.

101. (New) A pharmaceutical composition comprising a therapeutically effective amount of the antibody of claim 68 in a pharmaceutically acceptable carrier.

102. (New) A pharmaceutical composition comprising a therapeutically effective amount of the antibody of claim 80 in a pharmaceutically acceptable carrier.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Blanchard whose telephone number is (571) 272-0827. The examiner can normally be reached at Monday through Friday from 8:00 AM to 6:00 PM, with alternate Fridays off. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms, can be reached at (571) 272-0832.

The official fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/David J. Blanchard/  
Primary Examiner, A.U. 1643